



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2013-0083; FRL-9804-6]

**Approval and Promulgation of Air Quality Implementation Plans;
Indiana; Particulate Matter Air Quality Standards.**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a request submitted by the Indiana Department of Environmental Management (IDEM) on January 30, 2013, to revise the Indiana State Implementation Plan (SIP) for particulate matter under the Clean Air Act (CAA). This submission contains the 24-hour fine particle (PM_{2.5}) National Ambient Air Quality Standards (NAAQS) promulgated by EPA in 2006, and removes the annual coarse particle (PM₁₀) NAAQS that EPA has previously revoked. The submission also asks EPA to approve into the SIP certain Federally regulated criteria pollutant definitions and abbreviations.

DATES: This direct final rule will be effective [INSERT DATE 60 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER], unless EPA receives adverse comments by [INSERT DATE 30 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER]. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the Federal Register informing the public that the

rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No.

EPA-R05-OAR-2013-0083 by one of the following methods:

1. www.regulations.gov: Follow the on-line instructions for submitting comments.

2. E-mail: aburano.douglas@epa.gov

3. Fax: (312) 408-2279.

4. Mail: Douglas Aburano, Chief, Attainment Planning and Maintenance Section, (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

5. Hand Delivery: Douglas Aburano, Chief, Attainment Planning and Maintenance Section (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 AM to 4:30 PM, excluding Federal holidays.

Instructions: Direct your comments to Docket ID No.

EPA-R05-OAR-2013-0083. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information provided, unless the comment

includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through www.regulations.gov or e-mail. The www.regulations.gov website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through www.regulations.gov your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the www.regulations.gov index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain

other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 AM to 4:30 PM, Monday through Friday, excluding Federal holidays. We recommend that you telephone Andy Chang, Environmental Engineer, at (312) 886-0258 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Andy Chang, Environmental Engineer, Attainment Planning and Maintenance Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-0258, chang.andy@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This supplementary information section is arranged as follows:

I. Background.

A. When and why did the State make this submission?

B. Did the State hold public hearings for this submission?

II. What is EPA's analysis of IDEM's submission?

III. What action is EPA taking?

IV. Statutory and Executive Order Reviews.

I. Background.

A. When and why did the State make this submittal?

On January 30, 2013, IDEM submitted as SIP revisions regulatory provisions addressing the NAAQS for nitrogen dioxide (NO₂), sulfur dioxide (SO₂), PM₁₀ and PM_{2.5}. EPA will be taking separate action on NO₂ and SO₂ in a future rulemaking. In this notice, EPA is addressing the submission with regard to the current primary and secondary 24-hour NAAQS for PM_{2.5},¹ which were published in the Federal Register on October 17, 2006 (see 71 FR 61144) and codified at 40 CFR 50.13, "National primary and secondary ambient air quality standards for PM_{2.5}." In the submission, IDEM has also requested that EPA remove from the SIP the annual PM₁₀ NAAQS that EPA revoked on July 1, 2006. At the State level, these provisions regarding PM_{2.5} and PM₁₀ became effective on January 18, 2013. IDEM's revisions ensure consistency between the State and Federal definitions of the PM_{2.5} and PM₁₀ NAAQS, as well as in the determination of attainment of those NAAQS.

The January 30, 2013, submission also includes a list of the Federally regulated criteria pollutant definitions and

¹ Note that on January 15, 2013, the revised primary annual PM_{2.5} NAAQS was published in the Federal Register (see 78 FR 3086). The State's submissions, as well as today's rulemaking, do not extend to this NAAQS.

abbreviations to be used in a rule that delineates attainment status designations for each county in Indiana. These definitions became effective at the State level on January 18, 2013, and are intended to serve as a key or glossary for the remainder of the rule. In this rulemaking notice, EPA will be taking action on the definitions and abbreviations related to PM_{2.5} and PM₁₀.

B. Did the State hold public hearings for this submission?

A public hearing for these revisions was held on November 7, 2012. No comments were received at this hearing.

II. What is EPA's analysis of IDEM's submission?

On October 17, 2006, revisions to the 24-hour PM_{2.5} NAAQS were published in the Federal Register (see 71 FR 61144). The primary (health-based) PM_{2.5} NAAQS was strengthened to 35 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$), measured as a 24-hour average concentration. The secondary (welfare-based) PM_{2.5} NAAQS was revised to be identical to the primary PM_{2.5} NAAQS. EPA codified these revisions at 40 CFR 50.13.

Under 40 CFR 50.13(a), ambient 24-hour average PM_{2.5} concentrations are to be measured by either: (1) a reference method based on appendix L to 40 CFR part 50 ("Reference Method for the Determination of Fine Particulate Matter as PM_{2.5} in the Atmosphere") and designated in accordance with 40 CFR part 53

("Ambient Air Monitoring Reference and Equivalent Methods"); or (2) an equivalent method designated in accordance with 40 CFR part 53. In addition, under 40 CFR 50.13(c), determinations as to whether the 24-hour $PM_{2.5}$ standards have been met are to be made in accordance with the data handling conventions and computations in 40 CFR part 50, appendix N ("Interpretation of the National Ambient Air Quality Standards for $PM_{2.5}$ ").

In IDEM's January 30, 2013, submission, the State requested that EPA approve 326 Indiana Administrative Code (IAC) 1-3-4 (b)(8), as revised to reflect EPA's revised primary and secondary 24-hour $PM_{2.5}$ NAAQS. IDEM's requested revisions are substantively identical to the provisions contained in 40 CFR 50.13. Specifically, the definition of the NAAQS, the calculations for determining attainment of the NAAQS, and the mechanism to measure ambient concentrations of $PM_{2.5}$ are consistent with 40 CFR 50.13.

IDEM's rule contains the primary and secondary 24-hour $PM_{2.5}$ NAAQS of $35 \mu\text{g}/\text{m}^3$, which are achieved when 98th percentile 24-hour average concentration is equal to, or less than, $35 \mu\text{g}/\text{m}^3$, as determined in accordance with appendix N to 40 CFR part 50. Indiana has incorporated appendix N by reference into the SIP.

Indiana's submission also incorporates by reference appendix L to 40 CFR part 50, which contains the data handling

conventions and computations for determining whether the 24-hour $PM_{2.5}$ NAAQS have been met. It should be noted, however, that a determination of what constitutes a "Federal Equivalent Method" under 40 CFR 50.13(a)(2) can only be made by the Administrator of EPA.

On July 1, 2006, EPA revoked the annual PM_{10} NAAQS (see 71 FR 61144). Indiana has requested that EPA remove the portions of 326 IAC 1-3-4(b)(7) that contain or make reference to the former annual PM_{10} NAAQS.

Aligning State and Federal ambient air quality standards, calculations for compliance, and ambient concentration collection methods ensure consistency between EPA's and IDEM's $PM_{2.5}$ and PM_{10} NAAQS. Because the State has adopted regulations that are wholly consistent with the Federal NAAQS, EPA concludes that IDEM's requested revision concerning the incorporation of the 24-hour $PM_{2.5}$ NAAQS is approvable. EPA also concludes that IDEM's requested removal of the annual PM_{10} NAAQS is approvable.

Indiana also requests in its submission that EPA approve a list of Federally regulated criteria pollutant definitions and abbreviations into the SIP, specifically at 326 IAC 1-4-1. These terms include " SO_2 ", "CO" (carbon monoxide), " O_3 " (ozone), " NO_2 ", and "Pb" (lead). Indiana has requested that " PM_{10} " have the meaning set forth in 326 IAC 1-2-52.4 and that " $PM_{2.5}$ " has

the meaning set forth in 326 IAC 1-2-52.2. EPA has previously approved both 326 IAC 1-2-52.2 and 326 IAC 1-2-52.4 into the SIP, and IDEM is not seeking to revise those definitions. Because this list of terms and abbreviations are wholly consistent at the State and Federal levels, and are meant as a clarification for future SIP submissions related to 326 IAC 1-4-1, EPA concludes that this requested revision is approvable.

III. What action is EPA taking?

EPA is approving portions of a submission from IDEM that contains the Federally promulgated 24-hour PM_{2.5} NAAQS codified at 40 CFR 50.13 and removes a portion of Indiana's SIP as it relates to the annual PM₁₀ NAAQS, as EPA revoked this particular NAAQS in 2006. Finally, EPA is approving portions of the January 30, 2013, submission from Indiana that add a list of criteria pollutant definitions and acronyms to Indiana's rules that relate to concerning attainment status designations.

We are publishing this action without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the Proposed Rules section of this Federal Register publication, we are publishing a separate document that will serve as the proposal to approve the state plan if relevant adverse written comments are filed. This rule will be effective [INSERT DATE 60 DAYS FROM THE DATE

OF PUBLICATION IN THE FEDERAL REGISTER] without further notice unless we receive relevant adverse written comments by [INSERT DATE 30 DAYS FROM THE DATE OF PUBLICATION IN THE FEDERAL REGISTER]. If we receive such comments, we will withdraw this action before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on the proposed action. EPA will not institute a second comment period; therefore, any parties interested in commenting on this action should do so at this time. If we do not receive any comments, this action will be effective [INSERT DATE 60 DAYS FROM THE DATE OF PUBLICATION IN THE FEDERAL REGISTER].

IV. Statutory and Executive Order Reviews.

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995

(15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on Tribal governments or preempt Tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register.

A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [FEDERAL REGISTER OFFICE: INSERT DATE 60 DAYS FROM DATE OF PUBLICATION OF THIS DOCUMENT IN THE FEDERAL REGISTER]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the Proposed Rules section of today's Federal Register, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: April 4, 2013.

Susan Hedman,
Regional Administrator, Region 5.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

2. In § 52.770 the table in paragraph (c) is amended by revising the entry for "1-3-4" and adding a new entry in numerical order for "1-4-1" to read as follows:

§ 52.770 Identification of plan.

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(c) * * *

EPA-APPROVED INDIANA REGULATIONS

Indiana Citation	Subject	Indiana Effective Date	EPA Approval Date	Notes
* * * * *				
Rule 3. Ambient Air Quality Standards				
* * * * *				
1-3-4	Ambient air quality standards	1/18/2013	[INSERT THE DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT PAGE NUMBER WHERE THE DOCUMENT BEGINS]	(b) (7) and (b) (8) only
* * * * *				
Rule 4. Attainment Status Designations				
1-4-1	Definitions	1/18/2013	[INSERT THE DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT PAGE NUMBER WHERE THE DOCUMENT BEGINS]	
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[FR Doc. 2013-09149 Filed 04/18/2013 at 8:45 am; Publication
Date: 04/19/2013]